

REMARKS

With entry of this amendment, claims 9-10, 15, 18-20 and 32-37 are pending and under examination. Claim 1 has been amended to recite "consisting essentially of", to reinstate previously cancelled subject matter, and to include optional excipients and carriers, as recited in claim 18. Nonelected subject matter has been cancelled. New claims 34-37 have been added to cover aspects of amino acid derivatives that were previously present in claim 9, and do not expand the scope of the claimed subject matter, increase the number of pending claims, nor require additional search. No new matter has been added. Entry of the amendment and reconsideration are requested.

Claims 9-10, 15 and 18-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by Howell et al. (U.S. Patent No. 5,541,232; 1996). It is the Examiner's view that Howell teaches a method for inhibition and/or reversal of multidrug resistant phenomenon in a patient that covers the claimed uses, and specifically discloses the species M₄N (tetra-O-methylnordihydroguaiaretic acid). To the extent that it may be considered applicable to the presently pending claims, this rejection is traversed for the following reasons.

Howell et al. is directed to the use of catecholic butanes such as NDGA (nordihydroguaiaretic acid) for treatment of multidrug resistance. This is different from Applicant's claimed use in that Howell et al. inherently requires the administration of additional drug(s) to which the multidrug resistance develops. Base claim 9 has been amended to recite "consisting essentially of", thereby excluding the addition of such additional drugs. It is noted that Howell et al. makes no mention of compounds having amino acid residues as substituents, and therefore newly added claims 34-37 are free of the rejection. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 9-10, 15, 18-20 and 32-33 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Howell et al. (U.S. Patent No. 5,541,232; 1996).

It is the Examiner's position that Howell et al. teaches a method for the inhibition and/or reversal of multidrug resistant phenomenon in a patient and thereby treatment of both solid malignant tumors and hematological malignancies comprising the administration of NDGA or an analog thereof to a patient. It is the Examiner's position that the claimed concentrations would have been obvious to a person of skill in the art. Applicants respectfully submit that for the reasons detailed above, the currently claimed method is not obvious from Howell et al, which inherently

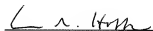
requires the administration at least one additional chemotherapeutic agent. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 9-10, 15, 18-20 and 32-33 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 21, 24-26, 30-32, 35, 39-50, 54-62 and 64-72 of U.S. Patent Application No. 11/284,111. Applicants will consider filing a Terminal Disclaimer if the rejection is maintained when otherwise allowable subject matter has been indicated.

All objections and rejections having been addressed, it is respectfully submitted that the application is in condition for allowance, and Notice to that effect is respectfully requested.

Respectfully submitted,

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